

**Town of Foxborough  
Conservation Commission Minutes  
March 8, 2010**

**Members present:** Bob Boette (Chairman), Alan Curtis (Vice Chairman), Harold Blomberg and Judi Johnson

**Absent:** Doug Davis, Jim Marsh and Eric Nelson  
Bill Hocking, Temporary Conservation Manager

**Also present:** Jane Sears Pierce, Conservation Manager

**Meeting Opened**

Bob Boette opened the meeting, which was held in the Selectmen's Meeting Room in Town Hall, at 7:00 p.m.

**Request for Determination, Mass Electric, 70 Mechanic Street (off)**

Alicia Kabir of Environmental Resources Management was in attendance, representing Mass. Electric, to present proposed work plan. Ms. Kabir is requesting a negative determination for the installation of a utility pole. This work will be performed behind the sub station on Neponset Avenue. The new pole will tie into the existing system. An auger truck will be used along with a bulldozer to level ground, if necessary. No waste will be generated and they will mulch and seed, if necessary, when done. Hay bales and silt fence will be left in place until inspected by FCC. Jane reported that the area is high and dry, recommending a negative determination for the work.

**Motion** by Judi Johnson for a Negative Determination for 70 Mechanic Street (off); State form conditions #3 and #6 and Town form condition #4. Seconded by Allan Curtis. **Vote: 4:0:0**

**DEP #157-485 - Order of Conditions, (Off) East Street (Bylaw & State)**

**Motion** by Judi Johnson was made to sign the Order of Conditions for DEP #157-485, as drafted. Seconded by Allan Curtis. **Vote: 4:0:0**

**DEP #157-442, Mill Street Preserve I, Partial Certificate of Compliance (Bylaw & State)**

**Motion** by Allan Curtis was made to issue a Partial Certificate of Compliance for Lots 2 (1A) and 2A for DEP File #157-442. Seconded by Judi Johnson. **Vote: 4:0:0**

**DEP #157-448, Mill Street Preserve II, OoC Extension Permit (Bylaw & State)**

**Motion** by Allan Curtis was made to issue a one year Bylaw Order of Conditions Extension Permit and a three-year State Order of Conditions Extension Permit for DEP File #157-448. Seconded by Judi Johnson. **Vote: 4:0:0**

**DEP #157-461 – 67 Green Street, OoC Extension Permit (Bylaw)**

**Motion** by Allan Curtis was made to issue a one year Order of Conditions Extension Permit for DEP File #157-461. Seconded by Judi Johnson. **Vote: 4:0:0**

**Request for Determination, 53 Willow Street**

Carol Marves, the homeowner, and her attorney, John Lovely, were in attendance. Ms. Marves proposes to replace her failed septic system, which is located within 100 feet of a wetland. Bob and Jane visited this site, which is a second RFD filing for the same project, which was approved but never acted upon. Although the site is surrounded by wetlands, the previous filing received a Negative Determination, probably because it is for the replacement of a failed septic system, which should be better for the environment.

**Motion** by Judi Johnson for a Negative Determination for 53 Willow Street; State form conditions #3 and #6 and Town form condition #4. Seconded by Allan Curtis. **Vote: 4:0:0**

**Request for Determination, 25 Linda Street**

William Buckley from Bay Colony Group was in attendance, representing the homeowner of 25 Linda Street (Maureen Mullins, not present). Mr. Buckley presented a plan to replace the septic system, located within the 100 foot buffer zone of bordering vegetated wetlands (BVW). The existing system, located in the rear of the lot, will be pumped, crushed and backfilled and the new system will be constructed in the rear.

A drainage easement exists on the left side of the house. Mr. Buckley indicated that he didn't know where there is a leaching field for the current system. The water table is high, with mottling at 5'4." The existing home is a split level home that has a finished lower level, which makes re-plumbing the house to relocate the system to the front yard impracticable. In addition, the gas line, which comes into the house from the right front side, would have to be relocated.

The proposed system will be located at least 58 feet from the BVW, which is in compliance with Title 5, and waivers have been granted by the Board of Health relative to the requirement that the system be at least 150 feet from the BVW. Construction access will be from the left side and stockpiles will be on the left.

The new system is the Eljen, Inc. Enviro-Septic Wastewater Treatment System that was approved for remedial use by the DEP on November 21, 2005. Since the system will provide enhanced treatment, the effluent will be reduced in strength, considerably below that of a standard septic tank effluent. Maximum feasible compliance is met by using an innovative/alternative system that will provide superior effluent quality going into the ground. The proposed new system requires annual inspections to ensure that it is functioning properly, unlike a normal system that is normally only inspected upon transfer of ownership.

**Motion** by Judi Johnson for a Negative Determination for 25 Linda St.; State form conditions #3 and #6 and Town form condition #4. Seconded by Allan Curtis. **Vote: 4:0:0**

**Request for Determination, 29 Connie Drive**

Applicant proposes to a septic system replacement, to be located within 100 feet of a wetland. This replacement is proposed for the front yard, which is high and dry and the farthest area away from the wetlands (to the property's rear).

**Motion** by Judi Johnson for a Negative Determination; State form conditions #3 and #6 and Town form condition #4. Seconded by Allan Curtis. **Vote: 4:0:0**

**February 22, 2010 Minutes**

**Motion** was made by made by Allan Curtis to accept the January 25, 2010 minutes as distributed. Seconded by Judi Johnson. **Vote: 3:0:1**  
(Harold Blomberg abstained from voting as he did not attend the meeting.)

**ZBA Meeting March 4, 2010, Nadia Estates, (off) Morris Street**

Bob and Jane attended the March 4th ZBA meeting regarding the continuance of the public hearing of Sage Realty Trust's request for a Comprehensive Permit (40B) for the proposed project called "Nadia Estates."

Sage Realty presented slightly modified plans, which included the removal of two detention basins on the east side of the vernal pool and a new stormwater leaching chamber on Harris Avenue (a

paper street). Sage Realty is asking for variances to the Foxborough's Conservation Commission's Wetlands and Groundwater Protection Bylaw, including the following sections (9 and 11):

- “9. No activity other than the maintenance of an already existing structure which will result in the building within or upon, removing, filling, or altering of land within 25 feet of a bordering vegetated wetland or an inland bank will be permitted by the Conservation Commission. The only exceptions to the above 25 foot buffer zone will be for:
- (1) a wetland crossing permitted under M.G.L. Chapter 131, Section 40 and Article IX, the Town of Foxborough Conservation Bylaws, and/or
  - (2) when the Commission determines that there are no reasonable conditions or alternatives that would allow the project to proceed in compliance with the Bylaws; and
- that the mitigating measures are proposed that will allow the project to be conditioned by the Commission so as to contribute to the protection of the interests identified in M.G.L. Chapter 131, Section 40 and Article IX, the Town of Foxborough Conservation Bylaws.<sup>3</sup>
11. No activity associated with the construction of new subdivisions (including roadways, drainage or utility systems or individual homes) or individual homes or commercial/ industrial projects shall be performed within 100 feet of any certified Vernal Pool or any isolated wetland which is identified by the Commonwealth of Massachusetts as the habitat of a state listed species.

If an addition or renovation to an existing residential structure is proposed within 100 feet of a certified vernal pool, the Conservation Commission will review this activity on a case by case basis and issue conditions necessary to provide for maximum protection to the pool in question.”

The Foxborough Conservation Commission members determined that they will work to preserve their Bylaw and will not issue any variances from Article IX's standards.

**Motion** by Judi Johnson not to issue any variances relative to Article IX's 100 foot vernal pool no activity zone or the 25 foot bordering vegetated wetland and inland bank no activity zones, as specified in Foxborough's Wetlands and Groundwater Protection Bylaw (Article IX), Sections 9 and 11. Seconded by Allan Curtis. **Vote: 4:0:0**

The Commission discussed the contents of a comment memo, which Jane would draft for submission to the ZBA. Specifically, a request for the submission of plan alternatives (citing 40B regulations' alternatives requirements) and examples such as a two-part septic system, duplex homes and the use of additional low impact development (LID) techniques. The Commission asked Jane to include information about the science behind the Bylaw's no activity zone(s) requirements, including the recently issued Federal PGP, which protects up to 750 feet from a vernal pool as “Critical Terrestrial Habitat.” Judi wanted the memo to state that the protection of 100 feet from a vernal pool is the absolute minimum, and to states “statistics show,” citing recent scientific studies. Information regarding isolated land subject to flooding (ILSF) and aquifer information should also be included in the memo.

Jane was asked to send copies of the project's ANRAD filing's minutes excerpts to the ZBA, for the record, highlighting the Commission's discomfort with closing the hearing so soon.

### **Spring Vernal Pool Program**

Jane asked the Commission if they wanted her to teach a vernal pool workshop this spring. They indicated that, unfortunately, she really didn't have time to hold such a program this year.

### **2010 Taunton River Watershed Mini-Grant Review**

Jane informed the Commission that she had spoken to Randy Scollins about this grant, which is for (up to) \$3,000. She hoped to receive this grant to be able to have dedicated monies to finish the OS&RP, giving a copy of her application to the Commissioners. Randy said that from an accounting point of view, her applying for and receiving the grant monies shouldn't pose any problems. The Commissioners were pleased that she would be submitting the grant application.

**Ethics Exam**

Our office was notified by the Town Clerk that the deadline for taking this exam is April 2, 2010. Allan Curtis and Eric Nelson have taken the exam but have not brought their certificates to the Town Clerk's office.

**Meeting adjourned at 9:50 p.m.**

Draft minutes submitted by: Judy Leahy on 3/29/10  
Approved by Commission: 3/29/10